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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/566,834	04/14/2006	Uwe Petersen	800980050	7487
42798	7590	11/13/2007		
FITCH, EVEN, TABIN & FLANNERY P. O. BOX 18415 WASHINGTON, DC 20036			EXAMINER SWARTHOUT, BRENT	
			ART UNIT 2612	PAPER NUMBER
			MAIL DATE 11/13/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/566,834

Applicant(s)

PETERSEN ET AL.

Examiner

Brent A. Swarthout

Art Unit

2612

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-9 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>2-2-06</u> . | 6) <input type="checkbox"/> Other: ____ |

1. Claims 1-5 and 8-9 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 1, lines 17 and 20; claim 2, line 2; claim 3, line 3; claim 4, line 3; claim 5, line 2; claim 8, line 4; and claim 9, lines 19 and 22 "and/or" is indefinite.

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Munch in view of Matsuda and Weidman et al.

Munch discloses a system for supporting a driver of a vehicle during emergency braking comprising automatically braking a vehicle during emergency conditions independent of a driver(par. 48), providing braking information to a driver upon an automatic braking condition being satisfied (par. 54), warnings and braking being based on rate or distance of a target to a vehicle (par. 43), except for specifically stating that a preliminary warning is given before critical braking condition is reached, or that independent braking is performed when a driver wishes to carry out the braking operation.

Matsuda teaches desirability in a system for providing automatic braking to avoid collision of providing a preliminary warning to a driver before automatic braking was effected (col. 3, lines 49-67).

Weidman discloses desirability in an automatic braking system of overriding a driver's desire to brake a vehicle by using automatic braking (col. 1, lines 35-43).

It would have been obvious to utilize a preliminary warning and operator override as suggested by Matsuda and Weidman in conjunction with a vehicle braking/warning system as disclosed by Munch, in order that an operator could have been warned of a hazardous condition before being abruptly surprised by automatic braking, and in order that an automated system could have taken control from an operator in order to perform desired operations to avoid an accident.

Regarding claim 2, Munch teaches desirability of determining which object has greatest relevance (par. 54).

Regarding claims 3-4, Munch teaches desirability of using relative speed as a parameter to determine braking and alarms (par. 52).

Regarding claim 5, Munch teaches use of visual alarm (par. 54).

Regarding claims 6-7, driver's desire to avoid collisions is determined by turning or braking operations (col. 1, lines 35-43).

Regarding claim 8, Matsuda teaches desirability of preserving a safety distance between a vehicle and a preceding vehicle (col. 3, lines 52-67).

3. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Lemelson, Friederich, Matsuura and Fujita disclose vehicle collision avoidance systems.


Application/Control Number:
10/566,834
Art Unit: 2612

Page 4

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brent A. Swarthout whose telephone number is 571-272-2979. The examiner can normally be reached on M-Th from 6:00 to 3:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel Wu, can be reached on 571-272-2964. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Brent A Swarthout
Primary Examiner
Art Unit 2612

BRENT A. SWARTHOUT
PRIMARY EXAMINER